

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CONSERVATION LAW FOUNDATION,
INC., et al.,

Plaintiffs,

v.

MICHAEL S. REGAN, in his official
capacity as Administrator of the U.S.
ENVIRONMENTAL PROTECTION
AGENCY, et al.,

Defendants.

Civil Action No. 22-CV-11863-RGS

NOTICE REGARDING SCHEDULING

In light of Plaintiffs' intention to continue litigating this matter, ECF No. 11, and to aid the Court in entering a pretrial schedule, *see* ECF No. 9, Defendants Michael S. Regan, et al. ("EPA") submit this notice regarding the current deadline for EPA's response to the Complaint.

Federal Rule of Civil Procedure 12(a)(2) provides the United States and its agencies, officers, and employees with 60 days after service on the United States Attorney to respond to a Rule 7(a) pleading. Service on the United States Attorney may be made by hand delivery or certified mail as set forth in Federal Rule of Civil Procedure 4(i)(1). Plaintiffs' Notice of Service and Intent to Litigate states that "Plaintiffs executed service on March 17." ECF No. 11 at 1. Service authorized by mail under Rule 4 is effected and completed upon *receipt* of the complaint and summons. *See Furtado v. Napolitano*, No. 09-11030-RGS, 2010 U.S. Dist. LEXIS 12409, at *7 (D. Mass. Feb. 12, 2010) (concluding plaintiff's service was untimely under Rule 4(m) where summons and complaint sent by certified mail before end of service period but not received by federal addressees until after the deadline).

Here, the United States Attorney's Office for the District of Massachusetts received a copy of the mailed complaint and summons on March 20, 2023.¹ *See* ECF No.10. Accordingly, EPA intends to respond to the Complaint 60 days thereafter, by May 19, 2023.

Dated: April 5, 2023.

TODD KIM
Assistant Attorney General

s/ Miranda M. Jensen
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CERTIFICATE OF SERVICE

I certify that on April 5, 2023, I filed the foregoing NOTICE REGARDING SCHEDULING using the Court's CM/ECF system, which will electronically serve all counsel of record registered to use the CM/ECF system.

s/ Miranda M. Jensen
MIRANDA M. JENSEN

¹ Plaintiffs' returns of service show that other federal addressees received copies of the mailings between March 20 and 28, 2023. These dates all come after Plaintiffs' filing of their Motion to Stay Litigation on March 17, 2023. *See* ECF No. 11 at 1-2 (incorrectly suggesting EPA misstated the date of service in opposing Plaintiffs' stay motion).